

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB170

Hearing Date: Tuesday February 05, 2013
Committee On: Banking, Commerce and Insurance
Introducer: Gloor
One Liner: Rename and expand the purpose of the Nebraska Educational Finance Authority Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Campbell, Carlson, Christensen, Crawford, Gloor, Howard, Pirsch, Schumacher
Nay:
Absent:
Present Not Voting:

Proponents: Senator Mike Gloor Linda Beaver Greg Dietrich Lowell Berg Nate Eckloff Timoree Klingler Thomas O'Neill	Representing: Introducer NE Educational Finance Authority Kutak Rock LLP NE Educational Finance Authority RBC Capital Market NE Hospital Association Association of Independent Colleges and Universities of NE
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Opponents: Robert Hallstrom	Representing: NE Bankers Association
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB170 (Gloor) would amend every section of the Nebraska Educational Finance Authority (NEFA) Act, sections 85-1701 to 85-1763, to expand its scope and re-name it the Nebraska Educational, Health, and Social Services Finance Authority Act.

Currently, NEFA helps Nebraska's private colleges and universities build, finance, and refinance capital improvement projects on their campuses by issuing tax-exempt bonds on behalf of private colleges and universities. Bond indebtedness is solely a liability of the private college or university and not an obligation of NEFA. NEFA also finances cash flow needs based on anticipated tuition revenues. NEFA is a body politic and corporate constituting a public instrumentality of the state of Nebraska created by the NEFA Act, and is authorized under the act to assist private colleges and universities in the state of Nebraska in the construction, financing, and refinancing of educational facilities, equipment, and structures. The authority consists of seven members appointed by the Governor.

LB170 would expand the scope of the authority to include projects of private health care institutions and private social services institutions as well as private institutions of higher education.

The bill would amend every section of the act to strike all section numbers so the act may be re-codified in another chapter of the statutes and to update terminology. For example, the bill would change the term trust "agreement" to trust "indenture." The bill would harmonize provisions, including internal references. Sections which contain more than technical changes are as follows:

Section 2 would amend section 85-1702 to add provisions to the public policy and purpose declarations that refer to private health care institutions and private social services institutions.

Section 7 would enact a new section to provide a definition of "eligible institution" - a private institution, or a private social services institution.

Section 8 would enact a new section to provide a definition of "private health care institution" - any private not-for-private corporation or institution that (1) is licensed under the Health Care Facility Licensure Act, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income tax under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any state or federal discrimination laws.

Section 9 would amend section 85-1707 to provide that "medicine" is an additional field for which a two-year degree program would qualify an institution to be eligible for assistance under the act.

Section 10 would enact a new section to provide a definition of "private social services institution" - any private not-for-profit corporation or institution that (1) provides health, safety, and welfare assistance, including emergency, social, and related support services, to members of the general public in the state, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any state or federal discrimination law.

Section 11 would amend section 85-1708 to expand the definition of "project" to include congregate care housing, emergency services facility, health care facility, health service institution, hospital, medical clinic, medical services facility, nursing services facility, personal care services facility, and social services facility.

Section 14 would amend section 85-1711 to add two new categories of persons that must be appointed to the seven-member authority: (1) a trustee, director, officer, or employee of one or more private health care institutions in the state; and (2) a trustee, director, officer, or employee of one or more private social services institutions in the state. This section would provide for the timing of the appointments.

Section 17 would amend section 85-1714 to provide that members of the authority may participate in a regular or special meeting of the authority by telephone conference call or video conference if the chairperson or vice-chairperson conducts the meeting where the public is able to participate and the telephone conference call or video conference conforms to the requirements of subdivisions (2)(a) through (e) of section 84-1411.

Section 28 would amend section 85-1725 to provide that the authority shall have no jurisdiction over rates, rents, fees and charges established by an institution for its patients, clients, or other consumers, as well as its students, other than to require that such rates, rents, fees, and charges by an institution be sufficient to discharge its obligation to the authority.

Section 40 would amend section 85-1737 to add references to "trust indenture."

Section 41 would amend section 85-1738 to provide for bonds to have variable rates and to be redeemed before maturity at a premium or discount. This section would provide that the seal of the authority may be printed or impressed on the bond. This section would provide that the resolution or trust indenture authorizing the bonds may provide that the bonds contain a recital that they are issued under the act, and such recital shall be deemed conclusive evidence of the

validity of the bonds and the regularity of the issuance. This section would provide that surplus bond proceeds may be applied in ways permitted by applicable federal income tax laws relating to the tax exemption of interest.

Section 42 would amend section 85-1739 to expand a reference to bond resolution to include any issue of bonds and any trust indenture securing any bond. This section would specify that bond resolutions, issues of bonds, and trust indentures may contain provisions that indicate the loan amount to be charged.

Section 43 would amend section 85-1740 to provide that the trust indenture by which a pledge is created or an assignment made shall be filed in the records of the authority and not with the Secretary of State and the county in which a project is located.

Section 48 would amend section 85-1745 to provide for loan payments by the institution.

Section 49 would amend section 85-1746 to provide how the authority may deposit and invest money received by the authority.

Section 66 would amend section 85-1763 to provide legislative intent that the changes made by this bill in the name of the act and in the name of the authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to the effective date of the bill.

Explanation of amendments:

The committee amendments would make the following changes:

1. The committee amendments would amend new section 10 to provide that the term "private social services institution" would be defined as providing "housing" as well as emergency, social, and related support services to the general public.
2. The committee amendments would amend section 85-1708 to tighten the definition of "project" and, in particular, would expand the definition to include: an assisted living facility; a skilled nursing services facility; and a senior, retirement, or home care services facility. The committee amendments would further expand the definition of "project" to provide that the term includes "the financing of eligible swap termination payments."
3. The bill would amend section 85-1731 to provide that the authority may issue bonds whenever the authority has received a written letter of intent to underwrite, place, or purchase the bonds from a financial institution having the powers of an investment bank, commercial bank, or trust company.

Mike Gloor, Chairperson